

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

FAIRWAY DRIVE CONDOMINIUM  
ASSOCIATION, a Washington Non-Profit  
Corporation,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY, an  
Illinois Corporation; and DOE INSURANCE  
COMPANIES 1–10,

Defendants.

NO.

COMPLAINT FOR DECLARATORY  
RELIEF, BREACH OF CONTRACT, BAD  
FAITH, CONSUMER PROTECTION ACT  
VIOLATIONS, AND DAMAGES

JURY DEMAND

Plaintiff Fairway Drive Condominium Association (“Association”) alleges as follows:

**I. INTRODUCTION**

1.1 This is an action for declaratory judgment, breach of contract, bad faith, Consumer Protection Act (“CPA”) violations, and money damages seeking:

(A) A declaration of the rights, duties, and liabilities of the parties with respect to certain controverted issues under Allstate Insurance Company (“Allstate”) policies issued to the Association. The Association is seeking a ruling that each of Allstate’s insurance policies provides coverage for hidden damage at the Fairway Drive Condominium and that Allstate is liable for money damages for the cost of repairing hidden damage at the Fairway Drive Condominium.

(B) Money damages for the cost of repairing covered damage, breach of contract, bad faith, and violations of the CPA.

(C) Attorneys' fees and costs (including expert witness fees).

(D) Any other relief the Court deems just and equitable.

## II. PARTIES AND INSURANCE CONTRACTS

2.1 The Association. The Association is a nonprofit corporation organized under the laws of the state of Washington with its principal place of business located in Renton, Washington. The Association has the duty to maintain the common elements and any limited common elements of the Fairway Drive Condominium. The Fairway Drive Condominium consists of seven buildings with eighty-four (84) residential units located in Renton, Washington.

2.2 Allstate. Allstate is an Illinois domiciled insurer with its principal place of business in Illinois. Allstate sold and issued property insurance policies to the Association including Policy No. 050470120 (in effect from at least 06/21/1990 – 06/21/1993). The Allstate policies identify the Fairway Drive Condominium as covered property. The Association is seeking coverage against all Allstate policies issued to the Association and/or covering the Fairway Drive Condominium.

2.3 Doe Insurance Companies 1–10. Doe Insurance Companies 1–10 are currently unidentified entities who, on information and belief, sold insurance policies to the Association that identify the Fairway Drive Condominium as covered property.

2.4 Fairway Drive Insurers. Allstate and Doe Insurance Companies 1–10 shall be collectively referred to as the “Fairway Drive Insurers.”

2.5 Fairway Drive Policies. The policies issued to the Association by the Fairway Drive Insurers shall be collectively referred to as the “Fairway Drive Policies.”

## III. JURISDICTION AND VENUE

3.1 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) as the parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000.

3.2 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) as the Fairway Drive Insurers marketed and sold insurance to the Association in King County; a substantial part of the

events giving rise to the claim, including the breach of contract, occurred in King County; and the insured condominium building is located in King County.

#### IV. FACTS

4.1 Incorporation by Reference. The Association re-alleges the allegations of Paragraphs 1.1 through 3.2, above, as if fully set forth herein.

4.2 Tender to Allstate. On January 26, 2022, the Association tendered a claim to Allstate for recently discovered hidden damage at the Fairway Drive Condominium. The Association requested that Allstate investigate for any other hidden damage that may exist at the Fairway Drive Condominium.

4.3 Joint Intrusive Investigation. In July 2022, the Association, including its experts at Evolution Architecture (“Evolution”), and the Association’s historic insurance providers, including Allstate, conducted a joint intrusive investigation at the Fairway Drive Condominium, which revealed system-wide hidden damage to the exterior building components including, but not limited to, exterior sheathing and framing.

4.4 Evolution Report. According to Evolution, the hidden water damage at the Fairway Drive Condominium has occurred incrementally and progressively, and some new loss or damage commenced during each Allstate policy period. The cost to repair the hidden damage at the Fairway Drive Condominium is in excess of \$7,000,000.00, well over the jurisdictional limit of \$75,000.

4.5 Allstate’s Denial of the Association’s Claim. On June 15, 2023, Allstate unreasonably denied coverage for the Association’s insurance claim.

#### V. FIRST CLAIM AGAINST THE FAIRWAY DRIVE INSURERS: DECLARATORY RELIEF THAT THE FAIRWAY DRIVE POLICIES PROVIDE COVERAGE

5.1 The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1 through 4.5, above, as if fully set forth herein.

5.2 The Association seeks declaratory relief from the Court in the form of determinations regarding the following disputed issues:

1 (A) The Fairway Drive Policies cover the hidden damage to exterior building  
2 components including, but not limited to, exterior sheathing and framing at the Fairway Drive  
3 Condominium.

4 (B) No exclusions, conditions, or limitations bar coverage under the Fairway Drive  
5 Policies.

6 (C) The loss or damage to the Fairway Drive Condominium was incremental and  
7 progressive. New loss or damage commenced during each year of the Fairway Drive Policies.

8 (D) As a result, the Fairway Drive Policies cover the cost of investigating and  
9 repairing the hidden damage to exterior building components including, but not limited to, the  
10 exterior sheathing and framing at the Fairway Drive Condominium.

11 **VI. SECOND CLAIM: AGAINST ALLSTATE FOR BREACH OF CONTRACT**

12 6.1 The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1  
13 through 5.2, above, as if fully set forth herein.

14 6.2 Allstate has contractual duties under the terms of its policies to pay the cost of  
15 investigating and repairing the covered damage to the Fairway Drive Condominium.

16 6.3 Allstate breached its contractual duties by wrongfully denying coverage on June 15, 2023,  
17 and by failing to pay the cost of repairing the covered damage to the Fairway Drive  
18 Condominium.

19 6.4 As a direct and proximate result of Allstate's breach of its contractual duties the  
20 Association has been damaged in an amount to be proven at trial.

21 6.5 As a direct and proximate result of Allstate's breach of its contractual duties, the  
22 Association has been forced to incur attorneys' fees, expert costs, investigation costs, and other  
23 expenses in order to prosecute this action, the sole purpose of which is to obtain the benefits of  
24 the Association's insurance contracts.

**VII. THIRD CLAIM: AGAINST ALLSTATE FOR INSURANCE BAD FAITH**

7.1 The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1 through 6.5, above, as if fully set forth herein.

7.2 The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. RCW 48.01.030. An insurer has a duty to act in good faith. This duty requires an insurer to deal fairly with its insured. The insurer must give equal consideration to its insured's interests and its own interests and must not engage in any action that demonstrates a greater concern for its own financial interests than its insured's financial risk. An insurer who does not deal fairly with its insured, or who does not give equal consideration to its insured's interests, fails to act in good faith.

7.3 The duty of good faith requires an insurer to conduct a reasonable investigation before refusing to pay a claim submitted by its insured. An insurer must also have a reasonable justification before refusing to pay a claim. An insurer who refuses to pay a claim, without conducting a reasonable investigation or without having a reasonable justification, fails to act in good faith.

7.4 Allstate had a duty to investigate, evaluate, and decide the Association's claim in good faith. Allstate breached its duty by unreasonably investigating, evaluating, and/or denying the claim by, among other things: (1) failing to acknowledge that weather conditions such as rain or wind-driven rain were one of the causes of the hidden damage at the Fairway Drive Condominium; (2) failing to acknowledge that weather conditions such as rain and wind-driven rain are covered causes of loss under the Allstate policies when the policies issued to the Association provide coverage for damage caused by or resulting from rain; (3) failing to acknowledge that there is coverage under the Allstate policies when damage results from the concurrent combination of rain and inadequate construction or wear and tear; (4) failing to acknowledge that there is coverage

1 under the resulting loss clause in the Allstate policies; and (5) failing to define terms in the Allstate  
2 policies pursuant to the plain meaning of the terms.

3 7.5 A violation, if any, of one or more of the Washington claims handling standards set forth  
4 below is a breach of the duty of good faith, an unfair method of competition, an unfair or deceptive  
5 act or practice in the business of insurance, and a breach of the insurance contract. Allstate's  
6 conduct violated Washington claims handling standards:

- 7 • Which require Allstate to fully disclose all pertinent coverages.
- 8 • Which prohibit misrepresentations regarding relevant facts (e.g. the cause of damages) or  
9 coverage.
- 10 • Which prohibit the practice of refusing to pay claims without conducting a reasonable  
11 investigation.
- 12 • Which require Allstate to provide a reasonable explanation of the relevant facts, law, and  
13 policy language and how its policy language supported a denial of the Association's claim.
- 14 • Which require Allstate to adopt and implement reasonable standards for the prompt  
15 investigation of claims.

16 7.6 Allstate's actions and omissions, including but not limited to its denial of coverage, were  
17 unreasonable, unfounded, and frivolous under the circumstances and constitute a breach of  
18 Allstate's duty of good faith. As a direct and proximate result of these breaches, the Association  
19 has been damaged in an amount to be proven at trial.

20 **VIII. FOURTH CLAIM: AGAINST ALLSTATE FOR VIOLATIONS OF THE**  
21 **CONSUMER PROTECTION ACT**

22 8.1 The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1  
23 through 7.6, above, as if fully set forth herein.  
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8.2 Violations of Washington Administrative Code (“WAC”) claims handling standards are per se CPA violations. On information and belief, Allstate’s conduct was deceptive, impacted the public, and had the capacity to deceive. The Association is a consumer. As a direct and proximate result of Allstate’s violations, the Association has been damaged in an amount to be proven at trial. Under the CPA, the Association is entitled to damages, CPA penalties of up to \$25,000 per violation, and attorneys’ fees.

### IX. PRAYER FOR RELIEF

WHEREFORE, the Association prays for judgment as follows:

9.1 Declaratory Judgment Regarding Coverage. A declaratory judgment that the Fairway Drive Policies provide coverage as described herein.

9.2 Money Damages. For money damages against each of the Fairway Drive Insurers for the cost of investigating and repairing hidden damage at the Fairway Drive Condominium in an amount to be proven at trial, as well as money damages against Allstate for breach of the duty of good faith in an amount to be proven at trial.

9.3 Attorneys’ Fees and Costs of Suit. For reasonable attorneys’ fees and costs (including expert fees). *See Olympic Steamship Co. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991), and RCW 48.30.015.

9.4 CPA Penalties. For CPA penalties against Allstate of up to \$25,000 per violation.

9.5 Other Relief. For such other and further relief as the Court deems just and equitable.

### X. DEMAND FOR JURY TRIAL

10.1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Association demands trial by jury in this action of all issues so triable.

Dated the 8th day of November, 2023.

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